

## **2009 DRAFTING REQUEST**

### **Bill**

Received: **08/04/2009**

Received By: **mglass**

Wanted: **As time permits**

Identical to LRB:

For: **Alan Lasee (608) 266-3512**

By/Representing: **Jennifer Esser**

This file may be shown to any legislator: **NO**

Drafter: **mglass**

May Contact:

Addl. Drafters:

Subject: **Nat. Res. - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Lasee@legis.wisconsin.gov**

Carbon copy (CC:) to:

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### **Pre Topic:**

No specific pre topic given

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### **Topic:**

Transfer of title to land from DNR to landowner

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### **Instructions:**

See attached

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### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State
/P1	mglass 08/25/2009	bkraft 08/26/2009	rschluet 08/27/2009	_____	lparisi 08/27/2009		State
/1	mglass 09/28/2009	bkraft 09/28/2009	mduchek 09/29/2009	_____	sbasford 09/29/2009	cduerst 10/05/2009	

FE Sent For:

↳ At Intro.

<END>

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FE Sent For:

1 bjk 9/28

MD  
9/28  
2H  
9/29  
<END>

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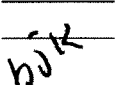
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See attached

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1/?	mglass	1/11 hjk 8/26					

FE Sent For:

<END>

Jan - 6-3512

Alan Lasee -

Require  
DNR to

Deed property to  
family for one  
dollar.

Family losing cottage to DNR  
in court case.

will get me  
legal description



# PESHTIGO TIMES

## Perspectives

\* Country Cousin

## Sports Shorts

- \* Baumann, Crivitz Baffle McAllister 7-Zip To Move Into Share Of Wisligan Lead
- \* Marinette 16-U All-Stars Finish Regional In Second Place
- \* Pitching And Defensive Woes Lead To Early Exit At "AAA" Tourney; Finishes Year 19-9



THE CITY REBORN FROM THE ASHES OF AMERICA'S MOST DISASTROUS FOREST FIRE

August 4, 2009

## Judge Rules Wied Property On Lake Noquebay Belongs To DNR

"We'll appeal it... This is not over... The DNR is out of control and the Department of Justice is allowing it to happen... The DNR answers to no one. I thought they were in charge of land conservation, not land confiscation!" The angry outburst came from Gerald Wied of Green Bay on Tuesday, July 28 in response to a decision by Judge David Miron that he will have to remove his family's summer home and outbuildings from property he believed his father, Justin Wied, purchased more than 44 years ago, in 1965.

Testimony before Judge Miron in Marinette County Circuit Court began at 9 a.m. Tuesday and ended with a decision in mid-afternoon that Wied has one year in which to move the home, eliminate the slab on which it sits, cap the well, demolish the two holding tanks and seed the disturbed area with some type of perennial grass. Wied does own other property nearby, with a property line about 500 feet from the present location of the home.

John Huff, DNR Wildlife biologist who manages the wildlife area from the Peshtigo DNR office, argued that Wied should be given just 90 days to get his buildings moved and restore the area, but Judge Miron overruled that request.

Huff had suggested added time for moving the home could be exchanged for providing the DNR with access to the peninsula. As it stands, DNR personnel and members of the public who might otherwise want to use it can access the property only by water, air or possibly in winter across a frozen swamp.

Miron said he could do nothing about providing the DNR with access rights.

The property is a 4-acre "spit" of land jutting into the west end of Lake Noquebay. It adjoins a sedge marsh portion of the state-owned Lake Noquebay Wildlife Area on one side and other upland properties owned by the Wied Family Trust on the other. The wildlife area was obtained by the state from Marinette County in 1960, when the wildlife area was established. That transaction involved a trade in which the Marinette County Forest received land the DNR had owned in the Town of Silver Cliff.

Evidence at the trial indicated originally the Wied family believed their entire parcel was in Section Three, Town of Middle Inlet, but when section corners in that area were remonumented by the Marinette County Surveyors Department in 2003 the peninsula or "spit" occupied by the Wieds was found to actually be in Section 10, Town of Lake. That finding apparently was verified again later in the year by use of new Global Positioning System (GPS) technology.

During a break in court proceedings, Wied said until Friday, July 24, he had thought an agreement had been reached with Huff that would settle the issue. He said he had offered to trade the DNR 200 acres of other property he owns adjoining the wildlife area for the four acres on which his home has been built, and thought the offer was accepted. Then came the phone call on Friday informing him there was no agreement. Wied said Huff told him law prohibited a trade for the land.

When proceedings started on Tuesday, Judge Miron commented that after the pre-trial a few weeks earlier he had understood there was an agreement, but now was informed the agreement had fallen through and the trial would go on.

Represented by Atty. David Herrick of Niagara, Wied based his case on an adverse possession law that was changed in 1998. Under provisions of that law, anyone who openly and publicly appropriates land for their own exclusive use, makes improvements and maintains it for 40 years or more without challenge becomes the owner. The current adverse possession law only requires 20 years of occupancy and improvements, but apparently it excludes the state.

Wied said he paid \$13,000 in property taxes last year and has paid hundreds of thousands of dollars on it over

**Peshtigo Times**  
**WEB Poll**  
Were you surprised when Brett Favre decided to stay retired?  
☐ Yes  
☐ No  
☐ Undecided

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the years.

Testimony and aerial photographs showed the Wied family has occupied and maintained the property since at least the early 1970's, but they were unable to produce convincing evidence they had occupied and/or improved it earlier. A 1966 photo did indicate there was some mowing being done.

Evidence included a survey Justin Wied had done to lay out his lots in the 1960s, but apparently there was never a survey done of Section 10, either by Wied or the DNR.

In summing up the case before his decision, Miron said because the survey error was discovered in 2003 and the case was filed at that time, in order to prove ownership under the old adverse possession law, Wied occupancy would have had to begin in 1963. The property was not purchased until 1965. The 40-year statute was repealed in 1998, but it might still apply going forward 40 years for properties purchased or occupied before that date, in which case the earliest date would be 2005. However, there are other factors and other laws that might apply. In one of his arguments, Herrick said the basis of their case was the difference in the statute as it exists today and as it existed in 1965 when the property was purchased.

Atty. Robert M. Hunter, representing the DNR, called Huff as his first witness. Huff said he has been employed by the DNR since 1986, and was transferred to Peshtigo in 1997. He is a wildlife biologist and property manager for the Lake Noquebay Wildlife Area.

Huff said he first became aware there might be a problem with the area boundary in 2003, when he received a letter from the assessor for the towns of Middle Inlet and Lake advising there appeared to be buildings encroaching on DNR property. He then contacted Jason Wied in regard to the Wied Trust property. He said the county at the time was in the process of remonumenting the corners in that area and once that was done they would have a better idea. The remonumentation was completed in early 2004 and established that the Wied buildings were on state land.

"I wanted to work with the Wied Trust and remove the buildings," Huff said. He felt it would not be much of a problem for them to move the buildings the 500 feet, off the state land and onto their own property.

"We offered to give them a land use permit for a limited time," Huff said. He said Jason Wied offered to trade land, but he felt that would be difficult because he is dealing with land held in trust for the public, and approval would be needed from the Natural Resources Board and other agencies.

He said the area had been mowed for quite some time. He felt tree lines on the perimeter of the mowed area seemed to be natural growth, not planted. There were no fences, and no signs posted denoting ownership by either Wied or the DNR.

A contention of the defense was that trees were planted along the property line in lieu of a fence, but testimony by Robert Wied was that the 1,000 trees his father planted were not planted there.

There was a building permit issued in the late 1980s for a new home to be built in Section 10, as well as sanitary waste permits. There was considerable testimony concerning aerial photos, with expert testimony by Wisconsin Department of Transportation Photogramatologist Mike Humke. Questions centered on evidence of mowing on the property, a dock, and the possibility a building or buildings, including an outhouse, might have been on the property but hidden by the tree canopy.

To questions from Herrick, Huff said the DNR has no plans to develop this property. He said the DNR's goal in the master plan is to preserve the area in a natural state for wildlife habitat and allow access only for hunting, fishing, etc. He said master plans are reviewed periodically, and can be changed by the will of the public. He said it is unlikely the DNR would ever encourage use of this area.

Huff did not know if DNR people had ever gone out there prior to 2003. A game warden went there in 2003 to tell the Wieds a tree stand had to be moved. Wied testified later the warden had not mentioned the possibility the tree stand was on state-owned property, but had told him it was too close to the water. He said the DNR did not know until the remonumentation that they even had a claim to the property his home is built on.

Gerald Wied testified he was 12 years old when his father bought the property in 1965, and it contained an old tar paper shack and an outhouse. He said there was a pot bellied stove and some cots, and they did stay overnight there occasionally all year round. He said his father started clearing brush and opening the road immediately after purchasing the property. They eventually tore down the old cabin and burned it, "one board at a time," in their camp fires.

He said he and his father planted apple trees and evergreens and shrubs round the yard.

There were 11 Wied children. Eventually George Wied bought the others out, and he, his wife, and their children established the Wied Trust.

He said in 1988 the DNR obviously did not claim the property. The Wied family were putting in a boat landing, using old railroad ties, and the DNR people told them they could not use that material. They never said it was their property. In 1989, DNR personnel told them to take their deer stand down because it was too close to the water, but again there was no suggestion the land belonged to the DNR. The road onto the property is gated and locked when no one is there, and has been for years, possibly since 1965. The Wieds keep the road plowed all winter. Wied testified that not only is there a snowmobile trail through the property, "we let the DNR use it." He said the original outhouse is still there.

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While questioning Wied about how the family trust happened to be formed, Hunter asked if the divorce of a family member was a factor.

Wied said there was a divorce at that time, but he did not feel it was a factor. He said his sister, Mary Jo, divorced Carl Kitchenmaster during that time, and said Kitchenmaster's name was on the DNR's witness list. "He told you guys we had an illegal cabin," Wied said, alleging Kitchenmaster was angry because he helped his sister "get out of an abusive situation." He said others on the DNR witness list against him included Karen Philipps, a first cousin of Kitchenmaster and a former DNR employee at the Wausaukee office, and Kitchenmaster's uncle, Harold Labinsky.

Hunter objected to the extra information related to the divorce, and was overruled by Miron. "You wanted to get into that stuff, you get what you get," Miron declared.

Wied said his family became aware that there might be an issue with the property lines in 2002 and 2003 when they were closing out the family ownership and settling his father's estate, but said neither he nor anyone else was sure until the remonumentation was done. He said the original survey was done in the early 1800s, and there had been no survey after that for over 100 years, "now with GPS technology, they tell us to get of their land!"

After a break for lunch, Robert Wied, Gerald's older brother, was called to the stand. He said he was 27 or 28 years old and living in Green Bay when his parents bought the land. He recalled "a sort of run down cabin and an outhouse and a 2-rut road to the cabin."

He recalled his father being all excited, and telling him, "I just bought the Merganser Club." He took him to the property to show it off, and told him, "it goes all the way down to the point." Robert Wied said he assumed that was true because his father said so. He said his father almost at once started caring for the property, hauling fill to shore up trees along the shoreline, mowing the grass, and eventually he built another cabin in the general area of the original one. He recalled his father planting 1,000 trees, but behind the house on Pines Lane, not on the shore.

There was more testimony concerning the Merganser Club, and Wied said as far as he knew, the old shack was the Merganser Club and that was what the family called the property. Testimony from others seemed to show the real Merganser Clubhouse was not located there.

Throughout the testimony and cross examinations, Miron asked some questions of his own, most apparently aimed at establishing time frames and the fact the family believed the spit area was the Merganser Club, and that their father had bought it. While they did not stay there often in the period from 1965 to the mid-1970s, when a mobile home started showing up on photos, the kids would swim there and others would enjoy fishing, boating, etc.

To questions about the tree stand, Huff said there is no problem with deer stands on private property, but on state property there can be no permanent stand, and portable stands may not be left up overnight.

Huff said often there are buildings on properties the state acquires. Sometimes they demolish them, sometimes, for budget reasons, they leave them. He said depending on the time frame, "we might make a case for future use."

Karen Philipps was called to testify. She said she grew up in the area, and was familiar with the Merganser Club, which she said was "pretty much undeveloped" in the early 60s. She said if there was a building, "it wasn't much," and she and other kids often swam on the spit because the water was shallow and there is a nice beach. She works for Uw-Marquette now, and prior to that at the Wausaukee office of the DNR.

Carl Kitchenmaster, who now lives in Marinette, also grew up on Pines Lane, and his aunt and uncle owned the resort at the end of the road. He met the Wied family in 1973 when he was introduced by Mary Jo, but before that, in the 60s, he had worked with his father logging the area behind the Wied house. He said after 1973 he worked much on the grounds of the spit area, but never saw any old hunting shack in the woods. As to underbrush, "it was pretty much mowed by the time I was introduced to the family." He did not recall the outhouse, but said there is one there now.

In his decision, Miron reviewed several facets of law as they apply in this case, but said even if they invoke the 40 year statute that the state contested, it would not apply to Wied ownership until 2010, and this law suit started in 2007. Once the new cabin was built in the mid 80s, the law would apply, "but unfortunately, that's too late."

After citing his reasons, he ruled that adverse possession had not been proved, "therefore ownership belongs to the state."

Atty. Hunter said the DNR needs to get access to return the property to its natural state.

"I can't give them access," Miron replied.

He said the Wied family should be given some opportunity to remove their buildings and property from the land.

Huff suggested that access could be traded for time. He suggested removal within 90 days.

"The family should be given at least a year," Herrick argued. "After all, the DNR didn't even know they owned this property until 2003."

"We have offered to negotiate, to give them 90 days," Huff said. "They have property 500 feet away. They should be able to find a site in 90 days."

"I get a distinct feeling that because the Wieds didn't accept their offer, they are being punished," Herrick countered. "I don't see the big hurry!"

"This law suit has been in progress for two and a half years," Miron declared. He gave the Wieds a year from today's date to remove the buildings.

Huff asked about restoring the property to its natural state. He said the slab on which the cabin sits will have to be removed, the well and holding tanks will also have to be removed and restored, and some sort of ground cover will need to be planted. Herrick said his client will take care of those issues. They do not want the DNR to do it. The same 1-year timetable for removal applies.

So it appears unless there is a successful appeal, the Wied cabin will be moved, the well and holding tanks will be destroyed and the property will be somewhat restored to its natural state, but the public likely will not be able to use or enjoy it because the only access other than by water or air is through property owned by the Wied family. Nothing was said in the ruling specifically about removing the boat dock, but apparently it would be an improvement that will also have to go.

"It's frightening that the DNR can, decades after the fact, post new property lines to suit their agenda and take private lands away from a family," Wied told the press on the eve of the trial. "We're fighting to keep our family land. We've tried to talk to the DNR for more than four years, but the simple fact is they refuse to be reasonable or negotiate. We can't be more frustrated and disappointed."

"If the Wieds appeal, we'll be back in court," Huff said Wednesday morning. "What happened yesterday was the culmination of a long period of negotiation. What I need to do is protect the rights of the owners of that land, and that is the public. The family was taking away the rights of the public to 1,000 feet of Lake Noquebay shoreline, land that the public owns." He said people can access the spit by walking Middle Inlet Creek, or by crossing the lake, but there is no driveable access.

Huff said he is pleased that the issue has been resolved, and that the state land that was in trust has been returned.

He said negotiations with the Wied family began in 2003, but "the family did not want to resolve the case with negotiations." He admitted that none of the deals offered would have allowed the family to keep the property with their cottage on it, although one proposal would have allowed them to stay there for a time, followed by eventual removal. He did not deny that the Wied family had offered to exchange 200 acres of other land in the wildlife area for the 4 acres in question.

#### Recent stories, opinions and photos

Issue Date	Department	Headline
07-29-2009	Sports	Baumann, Crivitz Baffle McAllister 7-Zip To Move Into Share Of Wishigan Lead
07-29-2009	Sports	Marinette 16-U All-Stars Finish Regional In Second Place
07-29-2009	Sports	Pitching And Defensive Woes Lead To Early Exit At "AAA" Tourney; Finishes Year 19-9
07-29-2009	Perspectives	Country Cousin
07-29-2009	Perspectives	From our readers
07-29-2009	Perspectives	Tales from the old-timer
07-29-2009	Obituaries	Amanda L. Zambrowicz
07-29-2009	Obituaries	Patrick W. Wilde
07-29-2009	Obituaries	Michael Stanoch
07-29-2009	Obituaries	Brittan Monsen
07-29-2009	Obituaries	Virginia I. Mitchell
07-29-2009	Obituaries	Anne M. Lipovac
07-29-2009	Obituaries	James Leon Kuester
07-29-2009	Obituaries	Leonard J. Gardner
07-29-2009	Obituaries	William J. Cisco
07-29-2009	Obituaries	Patricia L. Champagne
07-29-2009	Obituaries	Marilyn J. Ahrens
07-29-2009	Obituaries	Robert J. Shatusky

## Gibson-Glass, Mary

**From:** Esser, Jennifer  
**Sent:** Monday, August 24, 2009 8:59 AM  
**To:** Gibson-Glass, Mary  
**Subject:** FW: Gerald Wied--Dispute with DNR over Family Property  
**Attachments:** scan0004.pdf

Hi Mary,

I'm back in the office. Here is the scanned in version of the legal description.

Hope you had a good weekend.

---

**From:** Esser, Jennifer  
**Sent:** Thursday, August 13, 2009 1:26 PM  
**To:** Gibson-Glass, Mary  
**Subject:** FW: Gerald Wied--Dispute with DNR over Family Property

Hi Mary,

Attached is the legal description. Hope this is what you need.

Really appreciate the help.

Take care,

Jen

---

**From:** Tony Wied [mailto:tony@wiedoil.com]  
**Sent:** Wednesday, August 12, 2009 2:14 PM  
**To:** Sen.Lasee  
**Cc:** gmwied@gmail.com  
**Subject:** Gerald Wied--Dispute with DNR over Family Property

Dear Senator Alan Lasee,

As per our conversation, I have attached for you copies of the legal description of our property in dispute with the Wisconsin Department of Natural Resources. I appreciate your support in passing the appropriate legislation to quit claim deed this property to our family for \$1.

It was a pleasure speaking with you and I appreciate your help with this.

Sincerely,

Gerald Wied  
920.371.2235

8/25/2009

gmwied@gmail.com

PS: Below are 2 of the many articles written in publications across the state:

[http://www.greenbaypressgazette.com/apps/pbcs.dll/article?  
AID=/200908020407/GPG0701/908020613](http://www.greenbaypressgazette.com/apps/pbcs.dll/article?AID=/200908020407/GPG0701/908020613)

**Family appealing loss of cabin, land - JSOnline**

**HUGH W. GUY, JR.**  
**LAND SURVEYING, INC.**

LAND SURVEYOR - REAL ESTATE BROKER  
SOIL TESTING

*Land Surveying  
Subdivisions*

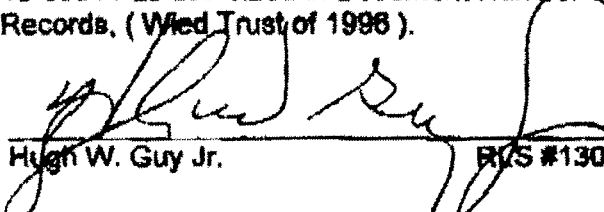
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Grivitz, Wisconsin 54114  
Phone 715-854-7511



*Real Estate Sales  
Percolation Testing  
Soil Boring*

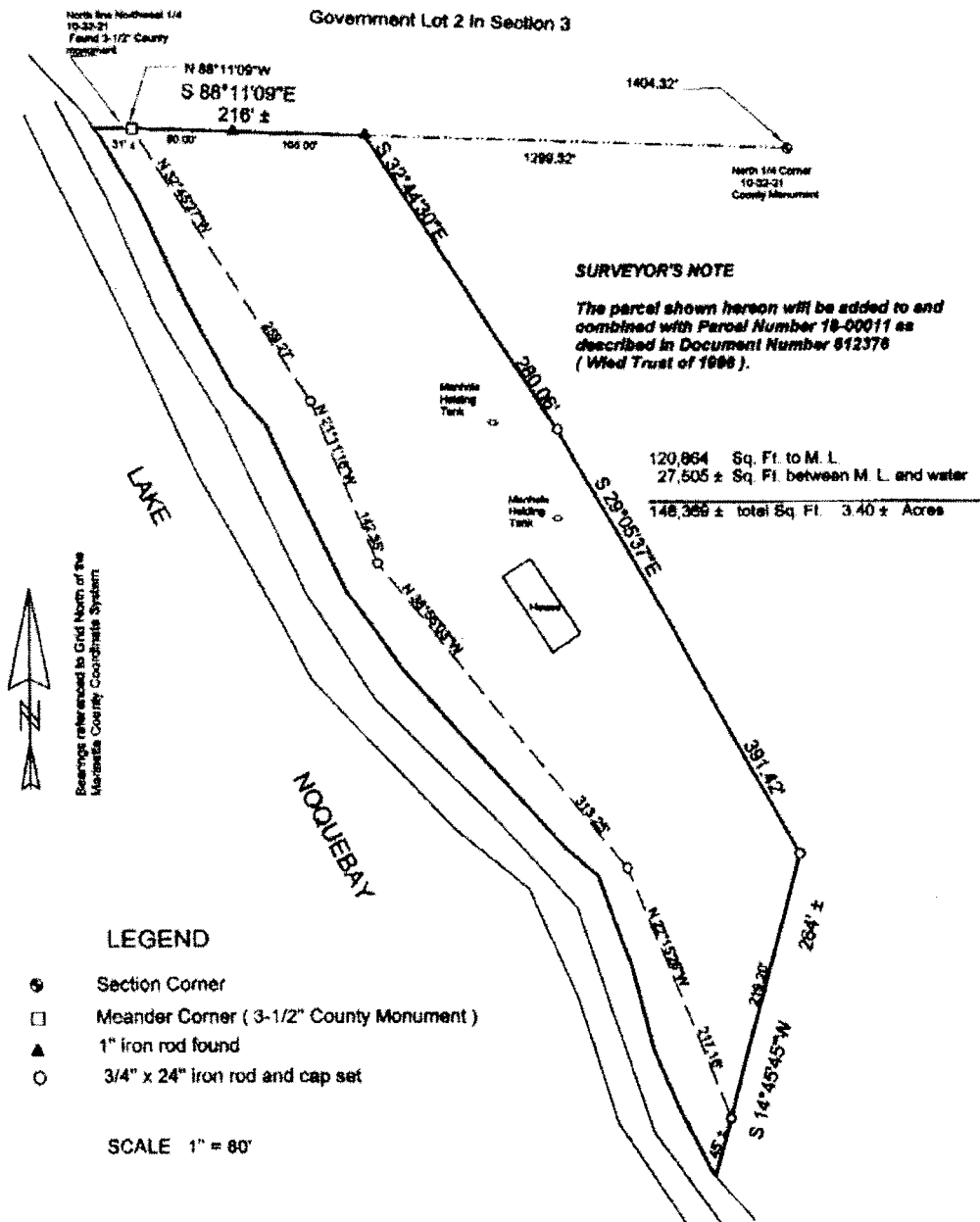
**3.40 ± ACRE PARCEL DESCRIPTION**

Part of Government Lot 1 in Section 10, Town 32 North, Range 21 East, Town of Lake, Marinette County, Wisconsin. Described as follows to-wit: Commencing at the North ¼ Corner of Section 10; thence N88°11'09"W along the North line of Government Lot 1, 1299.32' to a 1" iron rod marking the PLACE OF BEGINNING of the lands hereon described; thence S32°44'30"E 280.06' to a ¾" iron rod; thence S29°05'37"E 391.42' to a ¾" iron rod; thence S14°45'45"W 219.20' to a ¾" iron rod marking the Beginning point of a Meander Line that bears N22°15'26"W 217.16' to a ¾" iron rod, N38°56'03"W 313.25' to a ¾" iron rod, N21°11'18"W 142.35' to a ¾" iron rod and N32°45'27"W 259.27' to a 3-1/2" Marinette County Monument on the North line of Government Lot 1 and the Ending point of said Meander Line; thence continue S14°45'45"W 45' ± more or less to the waters of Lake Noquebay; thence Northwestery along the waters of Lake Noquebay to the North line of Government Lot 1; thence S88°11'09"E along the North line of Government Lot 1, 31' ± more or less to the 3-1/2" Marinette County Monument marking the Ending point of the above described Meander Line; thence continue S88°11'09"E along the North line of Government Lot 1, 185.00' to the place of beginning and containing 3.40 ± acres more or less. The above described parcel will be added to and combined with Parcel Number 18-00011 as described in Document Number 612376 of the Marinette County Records, ( Wied Trust of 1996 ).

  
Hugh W. Guy Jr.

RTS #1301

DATED this 12<sup>th</sup> day of August, 2009.



## DESCRIPTION

Mowed area in part of Government Lot 1  
in Section 10, Town 32 North, Range 21 East,  
Town of Lake, Marinette County, Wisconsin

## CERTIFICATE

I, Hugh W. Guy Jr. Surveyor, hereby certify  
that I have under the direction of Attorney David  
Herrick, that I have surveyed the lands hereon  
described.

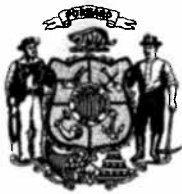
Hugh W. Guy Jr.

RLS #1301

DATED this 12th day of August, 2008.

2008-53





State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-3240

MGG:.....

Friday

D-Note

Ljk

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA -  
x-ref -

1 AN ACT ...; relating to: sale of a parcel of land located in Marinette County to  
2 Gerald Wied.

*gen.*  
*land*  
*no longer*  
*A*  
*a cabin*  
**Analysis by the Legislative Reference Bureau** *(DNR)*  
This bill requires that the department of natural resources sell to Gerald Wied of Green Bay for \$1 a parcel of land owned by the state upon which Gerald Wied has placed ~~structures~~. The bill exempts the sale from the requirement that a sale of state-owned land under the jurisdiction of DNR may not occur unless the Natural Resources Board determines that the ~~sale~~ is ~~not~~ necessary for conservation purposes and that the governor approve the sale.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

3 **SECTION 1. Nonstatutory provisions.**

A.R.

4 (1) The department of natural resources shall sell to Gerald Wied of Green Bay,  
5 Wisconsin, for the amount of \$1 a parcel of land owned by the state upon which  
6 Gerald Wied has placed ~~structures~~ *a cabin*. The department of natural resources shall

execute all of the documents necessary to transfer title to Gerald Wied. The parcel is part of government lot 1 in section 10, T. 32 N., R. 21 E., in the Town of Lake Marinette County and is described as follows:

Commencing at the north 1/4 corner of section 10; thence N. 88 degrees 11 minutes 9 seconds W. along the north line of government lot 1, 1299.32 feet to a one-inch iron rod marking the place of beginning of the land described herein; thence S. 32 degrees 44 minutes 30 seconds E. 280.06 feet to a 3/4-inch iron rod; thence S. 29 degrees 5 minutes 37 seconds E. 391.42 feet to a 3/4-inch iron rod; thence S. 14 degrees 45 minutes 45 seconds W. 219.20 feet to a 3/4-inch iron rod marking the beginning point of a meander line that bears N. 22 degrees 15 minutes 26 seconds W. 217.16 feet to a 3/4-inch iron rod, N. 38 degrees 56 minutes 3 seconds W. 313.25 feet to a 3/4-inch iron rod, N. 21 degrees 11 minutes 18 seconds W. 142.35 feet to a 3/4-inch iron rod and N. 32 degrees 45 minutes 27 seconds W. 259.27 feet to a 3/4-inch Marinette County monument on the north line of government lot 1 and the ending point of said meander line; thence continue S. 14 degrees 45 minutes 45 seconds W. 45 feet more or less to the waters of Lake Noquebay to the north line of government lot 1; thence S. 88 degrees 11 minutes 9 seconds E. along the north line of government lot 1, 31 feet more or less to the 3/12-inch Marinette County monument marking the ending point of the above-described meander line; thence continue S. 88 degrees 11 minutes 9 seconds E. along the north line of government lot 1, 185.00 feet to the place of beginning.

(2) Notwithstanding section 23.15 (1) of the statutes, the natural resources board is not required to make a finding that parcel land to be sold under subsection A.R. (1) is no longer necessary for the state's use for conservation purposes, and the

thence northwesterly along the waters of Lake Noquebay



section

of the statute

① procedure under s. 23.15 (2) does apply to the sale of the parcel of land does not apply  
2 to the sale of the parcel.

3

(END)

Note

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

Date

LRB-3240/pdn

MGG:.....

bjk

I have no means of verifying the accuracy of the legal description provided to me. In order to make sure that the enactment of this bill will settle the dispute, you may well wish to have DNR staff review <sup>it</sup> and agree with, the legal description as well as the contents of the bill. This is recommended to make sure that the bill achieves the intent of this legislation.

I have made this a preliminary draft because I do not know precisely to whom the property is to be sold. If the title holder is going to be Mr. Wiede and other family members or a family-held corporation or other entity, this bill will need to be redrafted.

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3240/P1dn  
MGG:bjk:rs

August 26, 2009

I have no means of verifying the accuracy of the legal description provided to me. In order to make sure that the enactment of this bill will settle the dispute, you may well wish to have DNR staff review, and agree with, the legal description as well as the contents of the bill. This is recommended to make sure that the bill achieves the intent of this legislation.

I have made this a preliminary draft because I do not know precisely to whom the property is to be sold. If the title holder is going to be Mr. Wied and other family members or a family-held corporation or other entity, this bill will need to be redrafted.

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215

**Gibson-Glass, Mary**

**From:** Esser, Jennifer  
**Sent:** Monday, August 24, 2009 8:59 AM  
**To:** Gibson-Glass, Mary  
**Subject:** FW: Gerald Wied--Dispute with DNR over Family Property  
**Attachments:** scan0004.pdf

Hi Mary,

I'm back in the office. Here is the scanned in version of the legal description.

Hope you had a good weekend.

---

**From:** Esser, Jennifer  
**Sent:** Thursday, August 13, 2009 1:26 PM  
**To:** Gibson-Glass, Mary  
**Subject:** FW: Gerald Wied--Dispute with DNR over Family Property

Hi Mary,

Attached is the legal description. Hope this is what you need.

Really appreciate the help.

Take care,

Jen

---

**From:** Tony Wied [mailto:tony@wiedoil.com]  
**Sent:** Wednesday, August 12, 2009 2:14 PM  
**To:** Sen.Lasee  
**Cc:** gmwied@gmail.com  
**Subject:** Gerald Wied--Dispute with DNR over Family Property

Dear Senator Alan Lasee,

As per our conversation, I have attached for you copies of the legal description of our property in dispute with the Wisconsin Department of Natural Resources. I appreciate your support in passing the appropriate legislation to quit claim deed this property to our family for \$1.

It was a pleasure speaking with you and I appreciate your help with this.

Sincerely,

Gerald Wied  
920.371.2235

9/28/2009

gmwied@gmail.com

PS: Below are 2 of the many articles written in publications across the state:

[http://www.greenbaypressgazette.com/apps/pbcs.dll/article?  
AID=/200908020407/GPG0701/908020613](http://www.greenbaypressgazette.com/apps/pbcs.dll/article?AID=/200908020407/GPG0701/908020613)

**Family appealing loss of cabin, land - JSOnline**

**HUGH W. GUY, JR.**  
**LAND SURVEYING, INC.**

LAND SURVEYOR - REAL ESTATE BROKER  
SOIL TESTING

*Land Surveying  
Subdivisions*

W8515 Kuchta Rd  
Crivitz, Wisconsin 54114  
Phone 715-854-7511



*Real Estate Sales  
Percolation Testing  
Soil Boring*

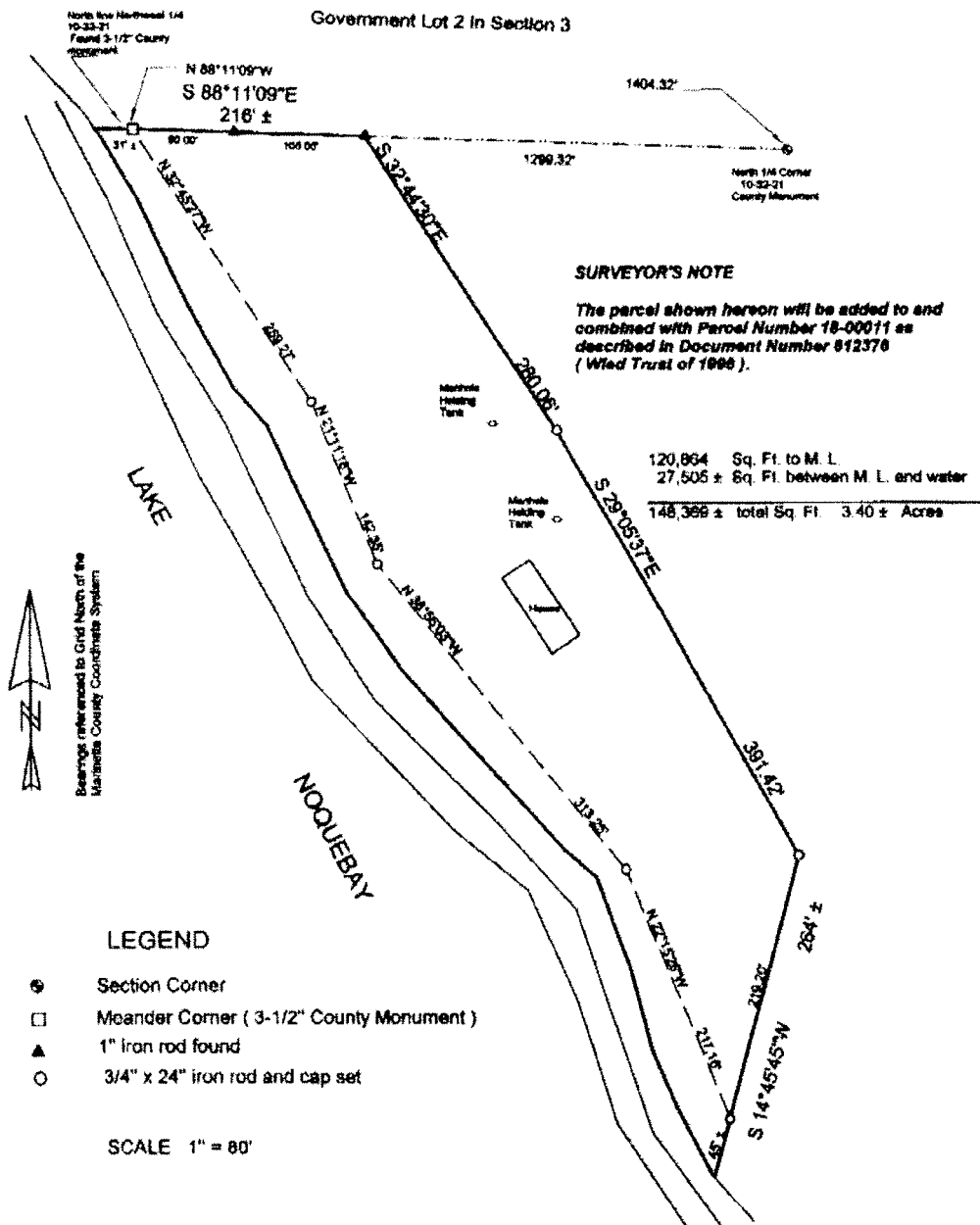
**3.40 ± ACRE PARCEL DESCRIPTION**

Part of Government Lot 1 in Section 10, Town 32 North, Range 21 East, Town of Lake, Marinette County, Wisconsin. Described as follows to-wit: Commencing at the North ¼ Corner of Section 10; thence N88°11'09"W along the North line of Government Lot 1, 1299.32' to a 1" iron rod marking the PLACE OF BEGINNING of the lands hereon described; thence S32°44'30"E 280.06' to a ¾" iron rod; thence S29°05'37"E 391.42' to a ¾" iron rod; thence S14°45'45"W 219.20' to a ¾" iron rod marking the Beginning point of a Meander Line that bears N22°15'26"W 217.16' to a ¾" iron rod, N38°56'03"W 313.25' to a ¾" iron rod, N21°11'18"W 142.35' to a ¾" iron rod and N32°45'27"W 259.27' to a 3-1/2" Marinette County Monument on the North line of Government Lot 1 and the Ending point of said Meander Line; thence continue S14°45'45"W 45' ± more or less to the waters of Lake Noquebay; thence Northwestery along the waters of Lake Noquebay to the North line of Government Lot 1; thence S88°11'09"E along the North line of Government Lot 1, 31' ± more or less to the 3-1/2" Marinette County Monument marking the Ending point of the above described Meander Line; thence continue S88°11'09"E along the North line of Government Lot 1, 185.00' to the place of beginning and containing 3.40 ± acres more or less. The above described parcel will be added to and combined with Parcel Number 18-00011 as described in Document Number 812376 of the Marinette County Records, ( Wied Trust of 1996 ).

  
Hugh W. Guy Jr.

RTS #1301

DATED this 12<sup>th</sup> day of August, 2009.



## DESCRIPTION

Mowed area in part of Government Lot 1  
in Section 10, Town 32 North, Range 21 East,  
Town of Lake, Marquette County, Wisconsin

## CERTIFICATE

I, Hugh W. Guy Jr. Surveyor, hereby certify  
that I have under the direction of Attorney David  
Herrick, that I have surveyed the lands hereon  
described.

Hugh W. Guy Jr.

RLS #1301

DATED this 12th day of August, 2009.

2008-53



**Gibson-Glass, Mary**

**From:** Esser, Jennifer  
**Sent:** Monday, September 14, 2009 9:50 AM  
**To:** Gibson-Glass, Mary  
**Cc:** Polzin, Cindy M - DOJ  
**Subject:** FW: Heads Up  
**Attachments:** Air photo 3240.jpg; Topo - 3240.jpg

Hi Mary,

Hope you had a great vacation.

In speaking with folks at DOJ, they refer to the property in question throughout the court documents as "disputed property."

There is no record of the exact legal description in the court documents.

I don't know how you wish to proceed, but I know we cannot rely upon the Wied survey as it seems as if the DNR has not signed off. Frankly, it seems as if the DNR has no concrete idea either.

Wasn't sure how you wish to proceed.

Jen

*conv w/ Jen*

**From:** Steffes, Richard E - DNR [mailto:Richard.Steffes@Wisconsin.gov]  
**Sent:** Tuesday, September 01, 2009 9:17 AM  
**To:** Gibson-Glass, Mary  
**Cc:** Esser, Jennifer; Heinen, Paul H - DNR  
**Subject:** FW: Heads Up

*Some question as to whether DNR agreed to description decided to use court order instead*

The legal description in the bill would provide for state conveyance to Wied of the area he is trespassing on.

**From:** Mella, Timothy L - DNR  
**Sent:** Friday, August 28, 2009 5:10 PM  
**To:** Steffes, Richard E - DNR; Anderson, Michael T - DNR (LF); Hansen, Karl E - DNR  
**Cc:** Rombach-Bartels, Jean - DNR; Huff, John J - DNR  
**Subject:** RE: Heads Up

Hi,

Well I gave it a shot. I believe Mr. Wied is asking for the higher/dryer part of Lot 1, Sec. 10 - T32N - R21E, owned by the Dept. The polygon I drew is only 3.46 acres, not the 4 acres mentioned in the email. Also the initial leg of the Wied description diverges in a northerly direction away from the Marinette Co. parcel line, I believe the GIS parcel line is in error. This certainly is not survey quality, but should give you a general idea what they are asking for. Also attached is a link to a County survey of that part of lot 1.

<http://webgis.marinettecounty.com:9080/IMSAccess/pdf?imageArea=flatfile&docKey=063733>

If more accuracy is needed I could assist Mike in the field if needed.

Tim

9/28/2009



**From:** Steffes, Richard E - DNR  
**Sent:** Thursday, August 27, 2009 04:21 PM  
**To:** Anderson, Michael T - DNR (LF); Hansen, Karl E - DNR; Mella, Timothy L - DNR  
**Subject:** FW: Heads Up

OK guys, how best do we check out the "coordinates"?

---

**From:** Heinen, Paul H - DNR  
**Sent:** Thursday, August 27, 2009 3:40 PM  
**To:** Vollbrecht, Mary E - DNR; Kazmierczak, Ronald - DNR; Steffes, Richard E - DNR  
**Subject:** FW: Heads Up

Dick

I have been expecting this bill for some time. It has O (zero) chance of passing but we should provide the proper coordinates for them at least. Jenn would like you to just e-mail Mary Gibson-Glass with the coordinates and cc. her.

Thanks

Paul

---

**From:** Esser, Jennifer [mailto:Jennifer.Esser@legis.wisconsin.gov]  
**Sent:** Thursday, August 27, 2009 12:30 PM  
**To:** Heinen, Paul H - DNR  
**Subject:** Heads Up

Hi Paul,

I wanted to let you know that Sen. Lasee is going to be introducing a bill in regards to the ongoing dispute with the Wied family. This is the 4 acres of land up in Marinette County (Lake Noquebay in Town of Middle Inlet). Mary Gibson Glass suggested that we contact you to ensure that the legal description of the property matches.

If you could run this by your folks to check the description and contents, it would be appreciated.

Thanks in advance and have a good rest of the day.

Take care,

Jen

<<Prelim Draft Wied.pdf>>

**Gibson-Glass, Mary**

**From:** Esser, Jennifer  
**Sent:** Thursday, August 27, 2009 5:08 PM  
**To:** Gibson-Glass, Mary  
**Subject:** FW: Gerald Wied--LRB-3240/P1dn

Hi Mary,

I contacted Paul Heinen at DNR. He is going to email you the legal description.

Looks like the property would be sold to "Wied Trust of 1996"

Thank you so much for all your help on this and have a great weekend.

Jen  
Office of Sen. Lasee

---

**From:** Tony Wied [mailto:tony@wiedoil.com]  
**Sent:** Thursday, August 27, 2009 5:02 PM  
**To:** Esser, Jennifer  
**Subject:** Re: Gerald Wied--Dispute with DNR over Family Property

Hi Jen

It would be sold to the "Wied Trust of 1996". This is our family property and this same entity owns the adjacent property.

Please let me know if you have any additional questions.

Have a great day!

Tony Wied

Sent from my BlackBerry® wireless device

9/28/2009

## Gibson-Glass, Mary

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**From:** Polzin, Cindy M. [polzinm@doj.state.wi.us]  
**Sent:** Friday, September 25, 2009 2:04 PM  
**To:** Gibson-Glass, Mary; Esser, Jennifer  
**Subject:** RE: Wied Draft

**Attachments:** Scan001.pdf

Hello! Here is a document with all the information on it - I hope this helps! Please let me know if I can be of additional assistance.



Scan001.pdf (73 KB)

Cindy

---

**From:** Gibson-Glass, Mary [mailto:Mary.Gibson-Glass@legis.wisconsin.gov]  
**Sent:** Friday, September 25, 2009 12:02 PM  
**To:** Esser, Jennifer  
**Cc:** Polzin, Cindy M.  
**Subject:** RE: Wied Draft

Cindy

What I need is a case number, the court, the date of the order, etc., so that I can accurately describe it as the property in dispute in the Case No..... etc.

Thanks,

Mary

---

**From:** Esser, Jennifer  
**Sent:** Friday, September 25, 2009 11:41 AM  
**To:** Gibson-Glass, Mary  
**Cc:** Polzin, Cindy M - DOJ  
**Subject:** RE: Wied Draft

I apologize...it's described as "disputed property." There is no legal description whatsoever.

Cindy, can you please email Mary the document from your team? Thanks much

---

**From:** Gibson-Glass, Mary  
**Sent:** Friday, September 25, 2009 11:40 AM  
**To:** Esser, Jennifer  
**Subject:** RE: Wied Draft

Jen,

You were going to get me a copy of the final court order or judgment so we could see how the property was described in the court case.

I have not received it. Was someone supposed to send it to me?

## **Gibson-Glass, Mary**

---

**From:** Esser, Jennifer  
**Sent:** Friday, September 25, 2009 11:41 AM  
**To:** Gibson-Glass, Mary  
**Cc:** Polzin, Cindy M - DOJ  
**Subject:** RE: Wied Draft

I apologize....it's described as "disputed property." There is no legal description whatsoever.

Cindy, can you please email Mary the document from your team? Thanks much

---

**From:** Gibson-Glass, Mary  
**Sent:** Friday, September 25, 2009 11:40 AM  
**To:** Esser, Jennifer  
**Subject:** RE: Wied Draft

Jen,

You were going to get me a copy of the final court order or judgment so we could see how the property was described in the court case.

I have not received it. Was someone supposed to send it to me?

Thanks,

Mary

---

**From:** Esser, Jennifer  
**Sent:** Friday, September 25, 2009 10:28 AM  
**To:** Gibson-Glass, Mary  
**Subject:** Wied Draft

Hi Mary,

Hope you've had a great week. I was just wondering if you had any idea when a draft might be ready for us to look over? Just crossing things off my list and wanted to check in.

Hope you have a wonderful weekend and thanks for all your help on this.

Jen  
Office of Sen. Lasee

AUG 20 2009

STATE OF WISCONSIN

CIRCUIT COURT

MARINETTE COUNTY

WISCONSIN DEPARTMENT OF  
NATURAL RESOURCES,

Plaintiff,

v.

Case No. 07-CV-48

Other Real Estate: 30405

BUILDING AND ALL RELATED OR  
ATTACHED STRUCTURES  
ENCROACHING ON THE LAKE  
NOQUEBAY WILDLIFE AREA,  
Township 32 North, Range 21 East,  
Township of Lake, Marinette County  
Wisconsin DNR Section 10, being part of  
Government Lot 2, and  
WIED TRUST OF 1996,

Defendant.

**FILED**

AUG 19 2009

LINDA L. DUMKE-MARQUARDT  
CLERK OF COURTS  
MARINETTE COUNTY, WI

---

JUDGMENT AND ORDER

---

This is an action in ejectment brought by the Wisconsin Department of Natural Resources ("DNR"), the titled owners of the Lake Noquebay Wildlife Area, Township 32 North, Range 21 East, Township of Lake, Marinette County, Wisconsin, DNR Section 10, being part of Government Lot 1. The offending structure(s) ("Encroachment") consists primarily of a house, built by Justin J. and Irene Wied and now claimed by the Wied Trust of 1996. This matter came on for a trial to the Court on July 28, 2009. Based upon the testimony and other evidence presented before the Court and arguments of counsel also on the record, and for the reasons stated on the record by the Court:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. DNR is entitled to judgment that it is the legal owner of the Lake Noquebay Wildlife Area, Township 32 North, Range 21 East, Township of Lake, Marinette County, Wisconsin, DNR Section 10, being part of Government Lot 1 and is entitled to undisturbed possession and occupation of those lands.

2. Within one year from the date of trial (*i.e.*, on or before July 28, 2010) the Wied Trust of 1996 shall remove all encroaching structures (including but not limited to, the building, the concrete pad upon which it rests, the well and the holding tanks) placed by it and/or its predecessors in possession on or in the DNR land, described in paragraph 1 above. The removal of all such structures shall be subject to any applicable regulations governing structures placed on or in lands.

3. Within one year from the date of trial (*i.e.*, on or before July 28, 2010) the Wied Trust of 1996 shall restore the lands by seeding the lands with winter or perennial rye grass, as a precaution against erosion.

4. Pursuant to Wis. Stat. §§ 814.01 and 814.04(1), DNR is also entitled to and shall also have judgment against the Wied Trust of 1996 for its costs and disbursements in bringing and maintaining this actions, totaling \$1,476.00, including:

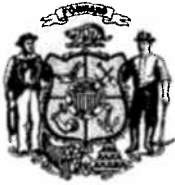
- a. \$155.00 (paid to the Marinette County Clerk of Court) for the filing of this action;
- b. \$231.00 (the remaining one-half of the fee paid to the Marinette County Clerk for Surveyor);
- c. \$80.00 (paid to Ivise of Madison, LLC, for copies of oversized photos/exhibits);
- d. \$180.00 (paid to Bay Reporting Service for deposition appearance fee);

- e. \$30.00 (Rhonda R. Mentor, Court Reporter, Marinette County Court);
- f. \$300.00 (expert witness fee); and
- g. \$500.00 (statutory attorney fees).

Dated this <sup>th</sup>18 day of August, 2009.

BY THE COURT

David G. Miron  
THE HONORABLE DAVID G. MIRON  
Circuit Court Judge, Br. 1



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-3240/01  
MGG:bjk:rs

→ Thus

Stays

PRELIMINARY DRAFT NOT READY FOR INTRODUCTION

that subject to a judgment and order of ejectment filed in an action of ejectment filed on August 19, 2009, in Case No. 07-CV-48 in the Circuit Court in Marinette County and for 2011 property taxes have been paid by the Wied Trust of 1996 or by a member of the family of Justin and Irene Wied.

AN ACT relating to: sale of a parcel of land located in Marinette County to Gerald Wied

the Wied Trust of 1996

Analysis by the Legislative Reference Bureau

This bill requires that the Department of Natural Resources (DNR) sell to Gerald Wied of Green Bay for \$1 a parcel of land owned by the state upon which Gerald Wied has placed a cabin. The bill exempts the sale from the requirement that a sale of state-owned land under the jurisdiction of DNR may not occur unless the Natural Resources Board determines that the land is no longer necessary for conservation purposes and that the governor approve the sale.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Nonstatutory provisions.

(1) The department of natural resources shall sell to Gerald Wied of Green Bay,

Wisconsin, for the amount of \$1 a parcel of land owned by the state upon which

Gerald Wied has placed a cabin. The department of natural resources shall execute



all of the documents necessary to transfer title to ~~Gerald~~ <sup>the</sup> Wied. The parcel is part of government lot 1 in section 10, T. 32 N., R. 21 E., in the Town of Lake Marinette County and is described as follows: Commencing at the north 1/4 corner of section 10; thence N. 88 degrees 11 minutes 9 seconds W. along the north line of government lot 1, 1299.32 feet to a one-inch iron rod marking the place of beginning of the land herein described; thence S. 32 degrees 44 minutes 30 seconds E. 280.06 feet to a 3/4-inch iron rod; thence S. 29 degrees 5 minutes 37 seconds E. 391.42 feet to a 3/4-inch iron rod; thence S. 14 degrees 45 minutes 45 seconds W. 219.20 feet to a 3/4-inch iron rod marking the beginning point of a meander line that bears N. 22 degrees 15 minutes 26 seconds W. 217.16 feet to a 3/4-inch iron rod, N. 38 degrees 56 minutes 3 seconds W. 313.25 feet to a 3/4-inch iron rod, N. 21 degrees 11 minutes 18 seconds W. 142.35 feet to a 3/4-inch iron rod and N. 32 degrees 45 minutes 27 seconds W. 259.27 feet to a 3-1/2-inch Marinette County monument on the north line of government lot 1 and the ending point of said meander line; thence continue S. 14 degrees 45 minutes 45 seconds W. 45 feet more or less to the waters of Lake Noquebay; thence northwesterly along the waters of Lake Noquebay to the north line of government lot 1; thence S. 88 degrees 11 minutes 9 seconds E. along the north line of government lot 1, 31 feet more or less to the 3-1/2-inch Marinette County monument marking the ending point of the above-described meander line; thence continue S. 88 degrees 11 minutes 9 seconds E. along the north line of government lot 1, 185.00 feet to the place of beginning.

(2) Notwithstanding section 23.15 (1) of the statutes, the natural resources board is not required to make a finding that <sup>the</sup> parcel <sup>of</sup> land to be sold under subsection (1) is no longer necessary for the state's use for conservation purposes, and the

1 procedure under section 23.15 (2) of the statutes does not apply to the sale of the  
2 parcel.

3 (END)

**Duerst, Christina**

---

**From:** Esser, Jennifer  
**Sent:** Monday, October 05, 2009 11:28 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-3240/1 Topic: Transfer of title to land from DNR to landowner

Please Jacket LRB 09-3240/1 for the SENATE.